

their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, fiscal, legal, historical, or other value to warrant their continued preservation.

(b) Within six months after the destruction of any records under this authorization, the agency official who directed the destruction must submit to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number (301) 837-1738, a written statement explaining the reasons for the destruction and a description of the records and how, when, and where the destruction was accomplished.

PART 1230—UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

Sec.

1230.1 What are the authorities for part 1230?

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1230.18 What assistance is available to agencies to recover unlawfully removed records?

AUTHORITY: 44 U.S.C. 3105 and 3106.

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1230.1 What are the authorities for part 1230?

The statutory authorities for this part are 44 U.S.C. 3105 and 3106.

§ 1230.2 What standards are used as guidance for this part?

These regulations conform with guidance provided in ISO 15489-1:2001, par. 6.3 (Responsibilities), 7.2 (Characteris-

tics of a record), 8.2 (Records systems characteristics), and 8.3 (Designing and implementing records systems).

§ 1230.3 What definitions apply to this part?

(a) See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including part 1230.

(b) As used in part 1230—

Alteration means the unauthorized annotation, addition, or deletion to a record.

Deface means to obliterate, mar, or spoil the appearance or surface of a record that impairs the usefulness or value of the record.

Removal means selling, donating, loaning, transferring, stealing, or otherwise allowing a record to leave the custody of a Federal agency without the permission of the Archivist of the United States.

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records.

§ 1230.10 Who is responsible for preventing the unlawful or accidental removal, defacing, alteration, or destruction of records?

The heads of Federal agencies must:

(a) Prevent the unlawful or accidental removal, defacing, alteration, or destruction of records. Section 1222.24(a)(6) of this subchapter prohibits removing records from the legal custody of the agency. Records must not be destroyed except under the provisions of NARA-approved agency records schedules or the General Records Schedules issued by NARA;

(b) Take adequate measures to inform all employees and contractors of the provisions of the law relating to unauthorized destruction, removal, alteration or defacement of records;

(c) Implement and disseminate policies and procedures to ensure that records are protected against unlawful

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or accidental removal, defacing, alteration and destruction; and

(d) Direct that any unauthorized removal, defacing, alteration or destruction be reported to NARA.

§ 1230.12 What are the penalties for unlawful or accidental removal, defacing, alteration, or destruction of records?

The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

§ 1230.14 How do agencies report incidents?

The agency must report promptly any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to the National Archives and Records Administration, Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001, phone number 301-837-1738.

(a) The report must include:

(1) A complete description of the records with volume and dates if known;

(2) The office maintaining the records;

(3) A statement of the exact circumstances surrounding the removal, defacing, alteration, or destruction of records;

(4) A statement of the safeguards established to prevent further loss of documentation; and

(5) When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.

(b) The report must be submitted or approved by the individual authorized to sign records schedules as described in § 1220.34(b) of this subchapter.

§ 1230.16 How does NARA handle allegations of unlawful or accidental removal, defacing, alteration, or destruction?

Upon receiving any credible information that records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, NARA will contact the agency as follows:

(a) If the threat has not yet resulted in damage, removal, or destruction, NARA will contact the agency by phone promptly and follow up in writing within five business days.

(b) If records have allegedly been damaged, removed, or destroyed, NARA will notify the agency in writing promptly with a request for a response within 30 days.

§ 1230.18 What assistance is available to agencies to recover unlawfully removed records?

NARA will assist the head of the agency in the recovery of any unlawfully removed records, including contacting the Attorney General, if appropriate.

PART 1231—TRANSFER OF RECORDS FROM THE CUSTODY OF ONE EXECUTIVE AGENCY TO ANOTHER

Sec.

1231.1 What is the authority for part 1231?

1231.2 What definitions apply to this part?

1231.10 Who has the authority to approve the transfer of records from the custody of one executive agency to another?

1231.12 How do executive agencies request to transfer records to another executive agency?

1231.14 May the records of terminated agencies be transferred to another agency?

1231.16 What restrictions are there on use of transferred records?

1231.18 When are records transferred between executive agencies without NARA approval?

AUTHORITY: 44 U.S.C. 2908.

SOURCE: 74 FR 51014, Oct. 2, 2009, unless otherwise noted.

§ 1231.1 What is the authority for part 1231?

The authority for this part is 44 U.S.C. 2908.

§ 1231.2 What definitions apply to this part?

See § 1220.18 of this subchapter for definitions of terms used throughout Subchapter B, including this part.